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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,403	08/11/2000	Aldo M. Pitt	0046.2001-000	7297

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/637,403

Applicant(s)
Pitt et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 22, 2002 and April 2, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-45 and 50-77 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-45 and 50-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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Applicant's election of Group III, now claims 38-45 and 50-77, in Paper No. 6 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38-40, 52, 60, 64-71 and 75-77 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The term "relative to a line ... perpendicular to an axis of rotation of a centrifuge" (claim 38, lines 6-7) is vague, and indefinite as to the angle of the membranes, since the presence of a centrifuge has not been positively recited in any of the claims. Similarly, the recitation that the angling mechanism is placed between the center of rotation of a centrifuge and the base of a swinging bucket attached to said centrifuge (claim 52) is indefinite since the presence of a centrifuge having a swinging bucket has not been positively recited in the claims. Claim 60 is indefinite

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because the preamble refers to a centrifuge, instead of a filtering device, for parent claim 41. Claims 39, 40, 64-71 and 75-77 depend from claim 38, and are therefore also indefinite.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 38-45 and 50-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valus et al. (U.S. Patent No. 5,665,247) in view of Miyagi et al. (U.S. Patent No. 4,722,792). Valus et al. discloses a multi-well filtration device (see col. 3, line 14) comprising a microfiltration or ultrafiltration membrane and a centrifuge (see col. 3, lines 1-8). Accordingly, this primary reference discloses the claimed invention with the exception of the recited angling mechanism. Miyagi et al. discloses a similar filter for a centrifugal separator, and teaches positioning the filtration member at a predetermined angle less than 90° (see col. 2, line 55), in order to improve filtration efficiency (see col. 2, lines 30-42). It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to provide the system of the primary reference with the angling mechanism of the secondary reference, in order to obtain the advantages disclosed by this secondary reference for the system of the primary reference. The exact angle of inclination (claims 60, 69, 72 and 75) and the exact number of filtration cells employed (claims 62 and 71) are not seen to materially affect the overall operation of the reference device, or to produce any new and unexpected result; and are therefore deemed to be obvious matters of choice in design, insufficient to patentably distinguish these claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
May 31, 2002